



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse12051243
[REDACTED]

[REDACTED]
Complainant,

v.

REPUBLIC AIRWAYS,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b).

On May 29, 2012, [REDACTED] ("Complainant") filed a Complaint with the Commission against Republic Airways ("Respondent") alleging discrimination on the basis of gender in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) [REDACTED]

[REDACTED] Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was denied employment due to his sex. In order to prevail upon such a charge, Complainant must show that: (1) he is a member of a protected class; (2) he applied for and was qualified for the position; (3) he was denied the position; and (4) a less qualified female applicant was selected or the job remained open.

The investigative record indicates that Complainant is clearly a member of a protected class due to his sex and the evidence provided indicates that he applied for and was qualified for the Flight Attendant position. Complainant alleged that he was denied the opportunity to interview for the position due to visible tattoos on his forearms; however, the available evidence provided reveals that the tattoos measured at two and a half inches from his wrist to the bottom of the tattoos and would have been concealed under the long-sleeved standard uniform shirt for Flight Attendants.



The record further shows that female employees are permitted to sign a waiver indicating that they would agree to conceal or otherwise cover their tattoos at all times while Complainant was informed that he was ineligible to sign the tattoo waiver or from employment generally because of the location of his tattoos. During the course of the investigation, it was observed that Respondent's ATL RSVP documentation was not consistent with the ATL RSVP document that Complainant received from Respondent prior to his interview on May 3, 2012, although the documents were supposed to be identical. Respondent's copy contains the words "wrists and forearms" as a disqualifying factor for employment whereas Complainant's copy did not contain such language. Moreover, while Respondent originally indicated that it did not have a tattoo waiver, Respondent provided the waiver upon request from our agency. Based upon the foregoing, probable cause exists to believe that an unlawful discriminatory practice occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

February 19, 2013

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission